

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

July 21, 1998

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Masterson, J., Dunn, J. (Assigned), and S. Beaux, Deputy Clerk.

Each of the following:

B106005 People v. McClendon
B110886 People v. Curtis
B111238 People v. Woods et al.
B112495 People v. Plager
B112638 People v. Doby
B112960 People v. Douglas
B113058 People v. Ridge
B114141 People v. Dominic F.
B114373 People v. Grissom
B114701 People v. Moore, Steven
B114864 People v. Champion
B114983 People v. Jones, Maurice
B115016 People v. Anderson
B115344 People v. Perry
B115495 People v. Joshua C.
B115963 People v. Campos
B115998 People v. Castillo
B116091 People v. Rodriguez
B116172 People v. Tsuha
B116248 People v. Rhodes
B116257 People v. White
B116428 People v. Weems
B116510 People v. Eviston et al.
B119153 People v. Jones, Frank
B121333 Kristie H. v. SCLA
B121676 Debra M. v. SCLA
B122096 Virginia S. v. SCLA
B122386 Scott R. v. SCLA

Argument waived, cause submitted.

DIVISION ONE (Continued)

B109460 Allingham
v.
County of Los Angeles et al.

Merits:

Argued by William P. Glavin for appellant and by Lyn A. Woodward for respondent County of L.A.; Lisa S. Berger for respondent City of L.A. and by Douglas J. Collodel for respondent Lanktree. Cause submitted.

B121984 Lisa D.
v.
SCLA
(Dept. of Children & Family Services, r.p.i.)

No appearances having been made. Argument is deemed waived, cause submitted.

B117104 The People
v.
Right

Merits:

Argued by Margaret E. Dunk for appellant and by Carol F. Jorstad, deputy attorney general, for respondent. Cause submitted.

B110267 The People
v.
Watson

Merits:

Argued by Margaret E. Maxwell, deputy attorney general, for respondent and no appearance for appellant. Cause submitted.

DIVISION ONE (Continued)

B114221 The People
 v.
 Bloodsaw

Merits:

Argued by William L. Heyman for appellant and by Juliet Swoboda, deputy attorney general, for respondent. Cause submitted.

B115170 The People
 v.
 Lopez

Merits:

Argued by Allen Weinberg for appellant and by David A. Wildman, deputy attorney general, for respondent. Cause submitted.

B120096 The People
 v.
 Moore

Merits:

Argued by Andrea R. Schrote, deputy district attorney, for appellant and by William L. McKinney for respondent Cause submitted.

B121419 Nguyen et al.
 v.
 SCLA
 (Kramer, r.p.i.)

Merits:

Argued by Donald J. Farber for petitioners and by Richard S. Gower for real party in interest. Cause submitted.

DIVISION ONE (Continued)

B114501 The People
 v.
 Summers

Merits:

Argued by James R. Bostwick for appellant and by Stephanie A. Miyoshi, deputy attorney general for respondent. Cause submitted.

B120188 Horwich
 v.
 SCLA
 (Acuna et al., r.p.i.)

Merits:

Argued by Jon B. Eisenberg for petitioner and by M. Scott Radovich for real parties in interest. Cause submitted.

B120991 Goertzen
 v.
 SCLA
 (Gold Country Escrow, Inc., r.p.i.)

Appearances:

Brian Shumake for petitioner and by Michael G. York for real party in interest. Argument waived, cause submitted.

B109715 Coombes
 v.
 Coombes

Merits:

Argued by Michael L. Oddenino for appellant and by Valerie H. Colb for respondent. Cause submitted.

DIVISION ONE (Continued)

B113511 The People
 v.
 Gonzales et al.

Merits:

Argued by Gerson Simon for appellant and by David Wildman, deputy attorney general for respondent. Cause submitted.

B112165 1972 Tax Shelter Partnership I
 v.
 Johnson et al.

Merits:

Argued by Mark C. Allen III for appellant and by William V. McTaggart for respondents. Cause submitted.

B117008 Food Court, Inc. et al.
 v.
 Citadel Panda Express, Inc. et al.

Merits:

Argued by Lana Feldman for appellants and by Jason S. Usow for respondents. Cause submitted.

B115729 Takaki et al.
 v.
 Hawthorne Savings

Merits:

Argued by Tom Corcovelos for appellants and by Roger P. Heyman for appellant. Cause submitted.

DIVISION ONE (Continued)

B107870 The People v. Cooks
B121307 In re Cooks on Habeas Corpus

Merits:

Argued by Andrew E. Rubin for appellant and by Deborah Bigbee Sturrock, deputy attorney general, for respondent. Cause submitted.

B109955 Sanwa Bank et al.
B111029 v.
 Morrison et al.
 Estate of James L.D. Morrison, Deceased.

Merits:

Argued by Bruce S. Ross for appellants and by Andrew S. Garb for respondent Kollender and Lynard C. Hinojosa for respondent Sanwa Bank. Cause submitted.

B103892 Walker
 v.
 City of Los Angeles et al.

Merits:

Argued by appellant Larry Walker, in propria persona, and by Dennis J. Walsh for respondent City of L.A. and Timothy A. Hogan, deputy city attorney, for respondent Vaugh. Cause submitted.

B120155 Johnson
 v.
 SCLA
 (Tate, r.p.i.)

Merits:

Argued by Lance S. Spiegel for petitioner and by Gary Cohen for real party in interest. Cause submitted.

DIVISION ONE (Continued)

B108467 Cotton
 v.
 Law Offices of Lawrence Drasin & Associates et al.

Merits:
Argued by Charles E. Ruben for appellant and by Bruce Isaacs for respondents. Cause submitted.

Dunn, J. (assigned) leaves the bench.

B115028 Walker
 v.
 Walker
 In re Marriage of Walker

Merits:
Argued by Marshall C. Sanders for appellant and by Paul A. Doyle, Jr. for respondent. Cause submitted.

Presiding Justice Spencer leaves the bench.

B119775 Los Angeles Cellular Telephone Co.
 v.
 SCLA
 (Spielholz, r.p.i.)

Merits:
Argued by Jeffrey S. Behar for petitioner and by Mark O. Hiepler for real party in interest. Cause submitted.

DIVISION ONE (Continued)

B104302 Glassman
v.
Flynn et al.

Merits:

Argued by Robert Glasser for appellant and by Marilyn Wise for respondent Oyler; Jon D. Robinson for respondent Short and Frank Revere for respondent Langberg & Associates. Cause submitted.

Court adjourned.

[illegible]

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Masterson, J.

B116510 People (Not for Publication)
v.
Eviston, et al.

The judgments are affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Masterson, J.

July 21, 1998-Continued

DIVISION ONE (Continued)

B112495 People (Not for Publication)

V. Plager

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Dunn, J. (Assigned)

B116172 People (Not for Publication)

V.
Tsuha

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B121333 Kristie H. (Not for Publication)

v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petition is denied.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

July 21, 1998-Continued

DIVISION ONE (Continued)

B122386 Scott R. (Not for Publication)
v.
Superior Court of Los Angeles
Los Angeles County Department of Children & Family Services

The petition is denied.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B115344 People (Not for Publication)
v.
Perry

Perry's sentence is modified by striking the five-year enhancements imposed for the two 1985 robberies; as modified, the judgment is affirmed and the cause is remanded to the trial court with directions to issue a corrected abstract of judgment reflecting this modification and also reflecting that the two remaining five-year enhancements were imposed under section 667, subdivision (a)(1).

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

[illegible]

Douglas's sentence is modified by reducing his sentence on the firearm/vehicle enhancement (Pen. Code, § 12022.5, subd. (b)(1)) from ten years to five years (which reduces his aggregate term to 30 years to life); as modified, the judgment is affirmed and the cause is remanded to the trial court with directions to enter a corrected abstract of judgment.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

July 21, 1998-Continued

DIVISION ONE (Continued)

B114864 People (Not for Publication)
v.
Champion

Champion's sentence is modified by striking two of the three true findings arising from case number A082999, leaving three five-year enhancements and an aggregate sentence of 90 years to life. As modified, the judgment is affirmed, and the cause is remanded to the trial court with directions to enter a corrected abstract of judgment.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Masterson, J.

[illegible]

Neal's and Woods's convictions of count 1 are reduced to misdemeanors. As modified, the judgments are affirmed, and the causes are remanded to the trial court for resentencing.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Dunn, J. (Assigned)

DIVISION FOUR

B113835 People (Not for Publication)
v.
Phillips

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Cooper (F.M.), J. (Assigned)

DIVISION FOUR (Continued)

B118030 Los Angeles County, D.C.S. (Not for Publication)

v.
Monica D.
Reyna D.

The judgment is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
 Cooper (F.M.), J. (Assigned)

B111005 People (Not for Publication)

v.
Coddie

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Cooper (F.M.), J. (Assigned)

B111190 People (Not for Publication)

v.
Moore

The trial court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment deleting the phrase "Court orders deft. to serve a minimum of 25 yrs." In all other respects, the judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
 Cooper (F.M.), J. (Assigned)

July 21, 1998-Continued

DIVISION FOUR (Continued)

B109414 People (Not for Publication)

V.

Wyndon et al.

The judgments are affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.

Cooper (F.M.), J. (Assigned)

B115760 People (Not for Publication)

V.

Ibarra

The judgment is modified to provide that the enhancements pursuant to Penal Code section 667.8, subdivision (a) are stayed, pursuant to Penal Code section 667.8 subdivision (c)(1), as to counts 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, and 20. As so modified and in all other respects, the judgment is affirmed. The trial court is directed to send a corrected abstract of judgment to the Department of Corrections.

Vogel (C.S.), P.J.

We concur: Epstein, J.

Hastings, J.

B113776 People (Not for Publication)

V.

Lloyd

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.

Hastings, J.

DIVISION FOUR (Continued)

B116781 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Keacher W.

The challenged findings and orders of the juvenile court are affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Cooper (F.M.), J. (Assigned)

B120304 Michele C. et al. (Not for Publication)
 v.
 Superior Court, Los Angeles County
 (Los Angeles Co. Department of Children and Family Services et al., r.p.i.)

This court's June 23, 1998, order staying the July 13, 1998, section 366.26 hearing is hereby dissolved. The petitions are denied.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Hastings, J.

B114811 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Marvin S.

The challenged orders are affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
 Copper (F.M.), J. (Assigned)

DIVISION FOUR (Continued)

B109546 Olson (Not for Publication)
v.
Franchise Tax Board

The order of dismissal following the sustaining of respondents' demurrer is affirmed. The purported appeal from orders denying a motion for judgment notwithstanding the verdict, or, alternatively, for a new trial, is dismissed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Cooper (F.M.), J. (Assigned)

B104390 Doe
v.
Martin

Filed order denying petition for rehearing.

DIVISION FIVE

B102770 John Stafford (Certified for Partial Publication)
v.
Mary Ann Sipper
Robert J. Murrin, et al.

The award of attorney's fees in favor of Stafford is reversed and the matter is remanded to trial court for a redetermination of the reasonable attorney's fees to be awarded Stafford, not to exceed the fees Stafford actually incurred. As the award of Code of Civil Procedure section 998 expert witness costs to Stafford depended, in part, on the amount of the attorney's fees awarded, the expert witness costs award is also reversed, subject to redetermination following the reasonable attorney's fees redetermination. The award of attorney's fees in favor of Murrin and Logan is affirmed. Murrin and Logan are to recover their costs and attorney's fees on appeal from Sipper. Sipper and Stafford are to bear their own costs on appeal.

Grignon, J.

We concur: Turner, P.J.
 Godoy Perez, J.

DIVISION FIVE (Continued)

B115371 Daniel Powers, et al. (Not for Publication)

v.

Dickson, Carlson & Campillo et al.

The order denying the petition to compel arbitration is affirmed. Appellants are to pay respondents costs on appeal.

Grignon, J.

We concur: Turner, P.J.
 Godoy Perez, J.

B114683 People (Not for Publication)

v.

Gabriel A. Gardea

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

(Certified for Publication)

B114148 Warehouse, Processing, Distribution Workers Union, Local 26

v.

Hugo Neu Proler Company

The order awarding attorney's fees to the employer, Hugo Neu Proler Company, pursuant to Labor Code section 1128, is reversed. The union, Warehouse, Processing, Distribution Workers Union, Local 26, is to recover its costs on appeal from the employer, Hugo Neu Proler Company.

Turner, P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

July 21, 1998-Continued

DIVISION FIVE (Continued)

B110751 People
v.
Barry Dibble

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment.)

B111256 People (Not for Publication)
v.
Christopher Allen Brown

The sentence of life imprisonment as to count 1 is reversed. As to count 1, defendant is to receive a sentence of 25 years to life plus 4 years for firearm use. The sentence as to count 1 is ordered stayed pursuant to Penal Code section 654. In all other respects the judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.
Godoy Perez, J.

B117755 In re Jennifer U. (Not for Publication)
L.A. County Dept. of Children and Family Services
v.
Wayne U.

The orders under review are affirmed.

Turner, P.J.

We concur: Grignon, J.
Godoy Perez, J.

July 21, 1998-Continued

DIVISION SIX

B111864 People (Not for Publication)
v.
Contreras

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

DIVISION SEVEN

B109974 People (Not for Publication)
v.
Ramos

The judgment is modified to provide that the sentence on count 2 shall run concurrently with that imposed on count 1. In all other respects, the judgment is affirmed. The superior court shall cause an amended abstract of judgment to be sent to the California Department of Corrections.

Neal, J.

We concur: Lillie, P.J.
Woods, J.

B116022 People (Not for Publication)
v.
Jillson

The judgment is modified to award appellant 354 days of custody credit and 176 days of conduct credit, making his aggregate Penal Code section 2900.5 precommitment credit 530 days. As modified, the judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.

July 21, 1998-Continued

DIVISION SEVEN (Continued)

B115636 People (Not for Publication)
v.
Walker

The judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.

[illegible]

The judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.

B117922 People (Not for Publication)
v.
Brandon B., a minor

The order under review is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.

July 21, 1998-Continued

DIVISION SEVEN (Continued)

B114964 People (Not for Publication)

V.

Martin R., a minor

The order under review is affirmed.

Lillie, P.J.

We concur: Woods, J.

Neal, J.

B115483 People (Not for Publication)

V.

Edgar G., a minor

The orders under review are affirmed.

Neal, J.

We concur: Johnson, Acting P.J.

Woods, J.

B118652 People (Not for Publication)

V.

Desiree W.

The judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.

Woods, J.

DIVISION SEVEN (Continued)

[illegible]

The judgment is affirmed. Respondents to recover costs on appeal. Upon respondents' motion, following the filing of the remittitur in the trial court, that court is directed to fix a reasonable attorney's fee on appeal to be recoverable as part of the judgment. (*Impac Imported Parts & Accessories Corp. v. Rattray*, *supra*, 95 Cal.App.3d 792, 800.)

Woods, J.

We concur: Lillie, P.J.
 Johnson, J.

B111989 Santana (Not for Publication)
v.
Thrifty Drug Stores Co., Inc.,

The judgment is affirmed. Respondents to recover costs on appeal.

Woods, J.

We concur: Johnson, Acting P.J.
Neal, J.

B114858 People (Not for Publication)
v.
Truesdale

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
 Johnson, J.

July 21, 1998-Continued

DIVISION SEVEN (Continued)

B110199 Trent (Not for Publication)

V.

Regents of the University of California

The judgment is affirmed. Respondents to recover costs on appeal.

Woods, J.

We concur: Johnson, Acting P.J.

Neal, J.

B096046 Conrad (Not for Publication)

V.

Rosenthal

The order is affirmed. Costs on appeal are awarded to respondent.

Woods, J.

We concur: Lillie, P.J.

Neal, J.

B114926 People (Not for Publication)

V.

Carrillo

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.

Neal, J.